

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 17-355V
(Not to be Published)

* * * * *

NICOLE HOOPER,	*	Special Master Corcoran
	*	
	*	
Petitioner,	*	Filed: October 22, 2018
	*	
	*	
v.	*	Decision by Proffer; Damages;
SECRETARY OF HEALTH	*	Influenza (“Flu”) Vaccine;
AND HUMAN SERVICES,	*	Guillain-Barré syndrome (“GBS”).
	*	
Respondent.	*	
	*	

* * * * *

Diana L. Stadelnikas, Maglio Christopher and Toale, PA, Sarasota, FL, for Petitioner.

Christine M. Becer, U.S. Dep’t of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On March 15, 2017, Nicole Hooper filed a petition seeking compensation under the National Vaccine Injury Compensation Program.² ECF No. 1. Petitioner alleged that she suffered from Guillain-Barré syndrome (“GBS”) as a result of receiving the influenza (“flu”) vaccine on October 2, 2015.

Thereafter, on November 13, 2017, Respondent filed her Rule 4(c) Report indicating that medical personnel of the Division of Injury Compensation Programs (“DICP”), Department of

¹ This Decision will be posted on the United States Court of Federal Claims website, and in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 (2012). **This means the Decision will be available to anyone with access to the internet.** As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the published decision’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the whole Decision will be available to the public in its current form. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

Health and Human Services concluded that Petitioner has satisfied the criteria for a GBS/flu vaccine injury as set forth in the Vaccine Injury Table (“Table”). *See* Rule 4(c) Report, filed November 13, 2017 (ECF No. 16) at 3. According to Respondent, the evidence shows that Petitioner suffered GBS following administration of the flu vaccine, and that onset occurred within the time period specified in the Table. *Id.* Thus, Respondent indicated that based on her review of the record Petitioner satisfied all legal prerequisites for compensation under the Act. *Id.* I subsequently issued a ruling on entitlement that same day. *See* ECF No. 17.

On October 22, 2018, Respondent filed a proffer proposing an award of compensation. ECF No. 32. I have reviewed the file, and based upon that review I conclude that the Respondent’s proffer (as attached hereto) is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The proffer awards:

- A lump sum payment of \$122,730.88, representing compensation for pain and suffering (\$85,000.00), past and future lost earnings (\$33,204.43), and out of pocket expenses (\$4,526.45), in the form of a check payable to Petitioner.

Proffer at II. These amounts represent compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which Petitioner is entitled.

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the Court is directed to enter judgment herewith.³

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

NICOLE HOOPER,)
Petitioner,)
v.)
SECRETARY OF HEALTH AND)
HUMAN SERVICES,)
Respondent.)
No. 17-355V
Special Master Corcoran
ECF

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$122,730.88 which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).¹ This amount includes \$85,000.00 for pain and suffering, \$33,204.43 for past and future lost wages, and \$4,526.45 for out of pocket expenses. Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$122,730.88 in the form of a check payable to petitioner. Petitioner agrees.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
Assistant Director
Torts Branch, Civil Division

s/Christine Mary Becer
CHRISTINE MARY BECER
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 616-3665

Date: October 22, 2018